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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,015	11/26/2003	Ronald W. Wortley	11984.5	1784

7590 04/14/2009
KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 48111

EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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04/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/723,015	Applicant(s) WORTLEY ET AL.	
	Examiner Cassandra Davis	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott, US 5316246.

3. With respect to claims 18, 19, and 23, Scott teaches a hose for IV solution and a clamp 11 attached to the hose, wherein the clamp has a marking surface adapted to receive tape or a label for identifying the medication flowing through the hose.

4. With respect to claims 21 and 25, since Scott teaches using tape, it is inherent that adhesive tape can be removably retained on the clamp.

5. With respect to claims 22 and 26, figures 3A and 3B clearly shows the marking surface and tape straddling the hose.

6. With respect to claims 20 and 24, the engagement is the adhesive on the tape.

7. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolfson, US 5281228.

8. With respect to claims 1, 7, 8-14, Wolfson teaches an identification member 66, a cross member 64 attached to the identification member to retain the identification

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member adjacent a hose clamp 62 and a member 78/82 for securing the identification device to a hose clamp.

9. With respect to claim 2, the identification member is plate 66.

10. With respect to claim 3, Wolfson also teaches a stabilizing plate 76/80 attached to the cross member 68, wherein the bottom portion of the stabilizing plate is parallel identification member.

11. With respect to claim 6, the planar surface of the identification device matches the planar surface of the hose clamp.

12. Claims 1-9, 11, and 13, are rejected under 35 U.S.C. 102(e) as being anticipated by Schweikert, US 2003/0066218.

13. With respect to claims 1, 11, and 13, Schweikert teaches catheter information ring 110 comprising an identification member 124, 630 and a cross member 112, 602 attached to the identification member, wherein the cross member transverses a hose clamp 170 to retain the identification member 124, 630 adjacent the clamp independently of the hose on which the hose clamp is located. (See figures 1,2, 4-9). Schweikert also teaches a member 610 for securing the device to the hose clamp.

14. Referring to claim 12, Schweikert teaches a first connecting portion having an identification member 630, and a cross member 602 attached to the identification member 630, wherein the cross member transverses a hose clamp to retain the identification member 630 adjacent the clamp independently of the hose on which the hose clamp is located. Schweikert also teaches a second connecting portion 608 engageable with the first connecting portion, wherein the second connecting portion has

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a cross member 610 having a curved or rounded portion which is loosely engageable against the curved portion 584 of the hose clamp. See paragraph 0044. The curved portion of the cross member 610 of the second cross member corresponds to the "member that engages the hose clamp" as claimed.

15. With respect to claim 2, the identification member is in the form of a plate. (See figures 1-12).

16. With respect to claim 6, the identification device substantially matches the contours of the hose clamp so no portions of the identification device substantially protrude beyond the hose clamp. (See paragraph 0042).

17. With respect to claim 7, the identification device is secured adjacent the hose clamp to reduce or prevent movement of the identification device independent of the hose clamp. The information ring is adapted to have the hose or conduit extend through opening 122.

Response to Arguments

Applicant's arguments filed January 28, 2009 have been fully considered but they are not persuasive.

With respect to the rejection of claims 18-26 under 35 U.S.C. 102(b) as being anticipated by Scott, US 5316246, the applicant argues Scott does not teach a hose clamp clamped to a hose. The applicant argues "the skilled artisan would have understood that component 11 of the holder 10 is exactly what Scott discloses: a clip, and not a clamp. Moreover, the skilled artisan would understand that the holder 10 is

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not clamped onto the IV hose since it appears from the Figures and the accompanying text that the holder merely secures the IV hose without any type of clamping action.”

The examiner disagrees. According to www.dictionary.com a clamp is

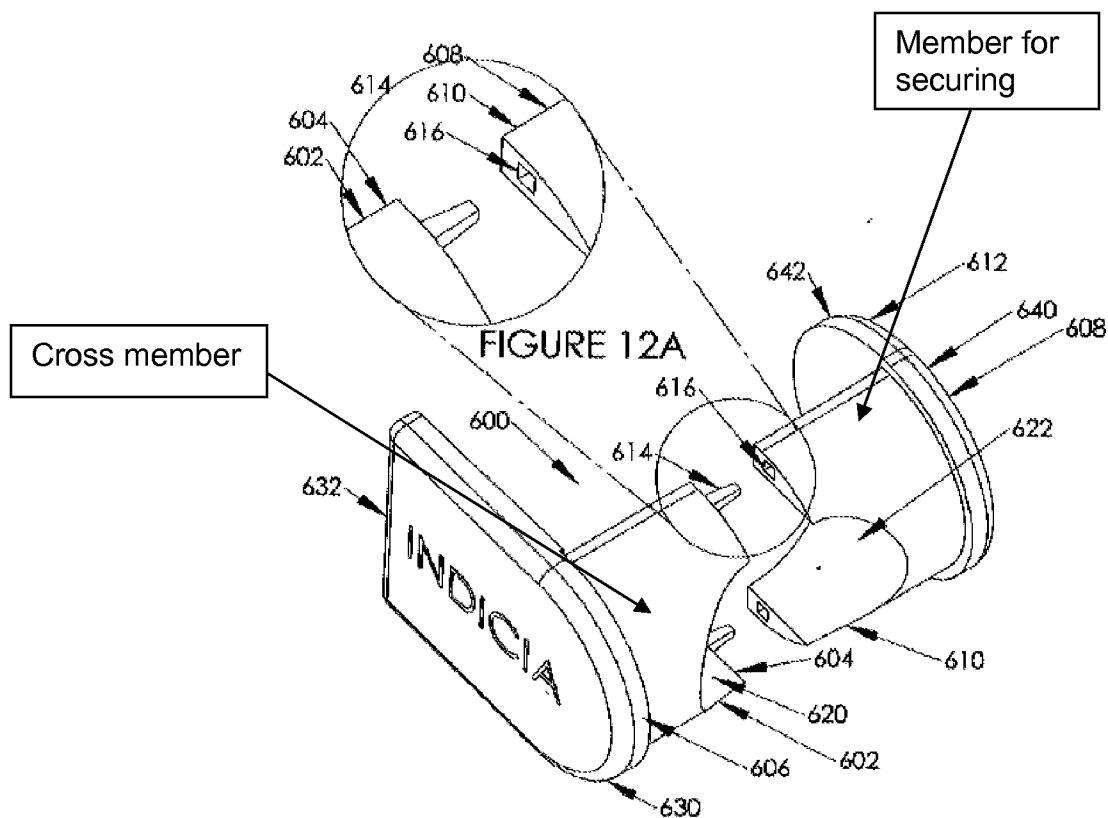
a device, usually of some rigid material, for strengthening or supporting objects or fastening them together.

The examiner maintains that clamp 12/11 of Scott is for supporting the holder/hose clamp to the IV tube. Scott clearly teaches providing a hose 30/32 with liquid fluid or medicine flowing there through, claiming a hose clamp or holder 10 to the hose using end clamp 12 or intermediate clamps 11 and placing or installing a tape or label to mark the medicine being administered. See column 3, lines 27-37. The rejection is maintained.

18. With respect to the rejection of claims 1-17 under 35 U.S.C. 102(b) as being anticipated by Wolfson, the applicant argues that Wolfson does not teach the identification member 66 and the clamp 62 could be used to identify and clamp a hose instead of an umbilical cord. The examiner disagrees. Claim 1 of the present application does not recite the hose in combination with the identification device. The examiner considers attaching the identification device to a hose to be intended use. The question for consideration is whether the device taught by Wolfson can be used on a hose. The examiner contends since the applicant does not point out any structure of Wolfson precluding it from being able to be used on a hose and since both a hose and a cord are elongated generally flexible items that the device taught by Wolfson can be used as a clamp on a hose. The rejection is maintained.

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19. With respect to the rejection of claims 1-9, 11, and 13 under 35 U.S.C. 102(e) as being anticipated by Schweikert, US 2003/0066218. The applicant argues that Schweikert does not teach an identification device containing a member (or means) for securing the identification device to a hose clamp that, in certain claims, is different than the cross member. The examiner disagrees. Schweikert teaches a cross member 602 and a member for securing 610.



20. As seen in figure 12, the cross member 602 is connected to the identification member 630 and transverses the hose clamp and a member 610 interacts with the cross member for securing the device to the hose clamp. The rejection is maintained.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cassandra Davis/
Primary Examiner
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CD